

EXHIBIT "A"

CHAPTER 618: ANIMALS

Section

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§ ~~618.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.~~

- (a) A person who is the owner or has charge of any animal, **including all dogs, cats, and other companion animals, as defined in §618.05(D)(1)(c)**, shall not permit it to run at large in the public road, highway, street, lane, **any public right of way**, ~~or~~ alley, or upon unenclosed land, or permit them to go upon any private yard, lot, or enclosure without the consent of the owner of the yard, lot, or enclosure.
- (b) **The owner, keeper, or harbinger of any dog, cat, and other companion animal shall at all times keep the dog, cat, or other companion animal either confined on the premises of the owner or firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises of the owner, keeper, or harbinger**

subject to §618.23. At all other times, the dog, cat, or other companion animal shall be properly kept on a leash and under the full and complete care of the owner, keeper, or harbinger.

- (c) No person shall cause animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or occupied by the owner or keeper thereof without the consent of the owner of premises.
- (d) The running at large of such animal in or upon any of the places mentioned in divisions (a) and (b) above is prima facie evidence that it is running at large in violation of this section. **For dogs, in any hearing under this section, testimony or other evidence presented that the records of the County Auditor show that a dog license for that animal was issued to the defendant shall be prima facie evidence of ownership.**
- (e) No owner, keeper, or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper, or harbinger at any time the dog is in heat unless the dog is properly in leash.
- (f) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:
 - (1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;
 - (2) Keep the dog under the reasonable control of some person.
- (g) Whoever violates divisions (a) or (b) of this section is guilty of a misdemeanor of the fourth degree. **Whoever is found guilty of four (4) separate offenses under this section shall be required to surrender the animal that is the subject of the above violations and offenses to the Middletown Division of Police or its designee.**
- (h)
 - (1) Whoever violates division (e) of this section shall be guilty of a minor misdemeanor on a first offense; and guilty of a misdemeanor of the fourth degree on each subsequent offense.,
 - (2) In addition to the penalties prescribed above, the offender is guilty of a violation of division (d) or (e) of this section, the court may order the offender to personally supervise the dog animal that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or both.

(i) Whoever violates division (d) of this section shall be guilty of a fourth degree misdemeanor on a first offense and guilty of a third degree misdemeanor on each subsequent offense.

(j) **Any animal found to be running at large in violation of division (a) of this section shall be impounded by the City or their representative and shall be handled pursuant to §618.18. The impounding and maintenance of such animal shall be at the expense of the owner or other person having control or charge of the animal.**

(Am. Ord. O2007-19, passed 3-6-2007)

§ 618.02 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat, or other ~~domestic~~ **companion** animal shall abandon the animal.

(ORC 959.01)

(b) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(ORC 959.99(E)(2))

§ 618.03 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, kill or injure a dog, cat, or any other ~~domestic~~ **companion** animal that is the property of another. This section does not apply to a licensed veterinarian **or public official or their representative** acting in an official capacity.

(ORC 959.02)

(b) Except as otherwise provided in this division, whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, whoever violates division (a) of this section is guilty of a misdemeanor of the first degree.

(ORC 959.99(B)) (Ord. 083-58, passed 6-21-1983)

§ 618.04 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a dog, cat, or any other ~~domestic~~ **companion** animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be

easily found and eaten by any such animal, either upon his or her own lands or the lands of another.

(ORC 959.03)

- (b) Whoever violates division (a) of this section is guilty of a misdemeanor of the fourth degree.

(ORC 959.99(C))

§ 618.05 CRUELTY TO ANIMALS; CRUELTY TO COMPANION ANIMALS.

A. No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during the confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during the confinement, access to shelter from wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This division does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, *SHELTER* means an artificial enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than 28 hours after they are so placed without supplying them with necessary food, water, and attention, nor permit the stock to be so crowded as to overlie, crush, wound, or kill each other.

B. Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which the livestock may be detained in any cars or compartment without food, water, and attention may be extended to 36 hours without penalty therefor. Division (a) of this section does not prevent the dehorning of cattle.

- C. All fines collected for violations of division (a) of this section shall be paid to the society or association for the prevention of cruelty to animals, if there is one in the municipality; otherwise, all fines shall be paid to the general fund.

(ORC 959.13)

D. Cruelty to Companion Animals.

(1) As used in this section:

- A. *BOARDING KENNEL*. Has the same meaning as in R.C. § 956.01.
- B. *CAPTIVE WHITE-TAILED DEER*. Has the same meaning as in R.C. §1531.01.
- C. *COMPANION ANIMAL*. Any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. *COMPANION ANIMAL* does not include livestock or any wild animal.
- D. *CRUELTY*. Has the same meaning as in Ohio R.C. 1717.01.
- E. *DOG KENNEL*. Means an animal rescue for dogs that is registered under R.C. § 956.06, a boarding kennel, or a training
- F. *FEDERAL ANIMAL WELFARE ACT*. The "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- G. *LIVESTOCK*. Means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.
- H. *PRACTICE OF VETERINARY MEDICINE*. The same meaning as in Ohio R.C. 4741.01.
- I. *RESIDENTIAL DWELLING*. A structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- J. *SERIOUS PHYSICAL HARM*. Means any of the following:
 - 1. Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
 - 2. Physical harm that involves either partial or total permanent incapacity;
 - 3. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
 - 4. Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the

companion animal of good, wholesome food and water that proximately causes the death of the companion animal.

K. *TORMENT*. Has the same meaning as in R.C. § 1717.01.

L. *TORTURE*. Has the same meaning as in R.C. § 1717.01.

M. *WILD ANIMAL*. The same meaning as in Ohio R.C. 1531.01.

- (2) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- (3) No person shall knowingly cause serious physical harm to a companion animal.
- (4) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
 - A. Torture, torment, or commit an act of cruelty against the companion animal;
 - B. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - C. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (5) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall knowingly do any of the following:
 - A. Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;
 - B. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of the deprivation or confinement;
 - C. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of or due to the lack of adequate shelter.

(6) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

- A. Torture, torment, or commit an act of cruelty against the companion animal;
- B. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
- C. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(7) Divisions (d)(2), (d)(3), (d)(4), (d)(5), and (d)(6) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under R.C. Chapter 4741;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under R.C. Chapter 4741.

(8) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this division (d) to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys either to provide the training that is

required for humane agents under Ohio R.C. 1717.06 or to provide additional training for humane agents.

(ORC 959.131)

(e) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(ORC 959.99(D))

(f)

(1) Whoever violates division (d)(2) of this section is guilty of a misdemeanor of the first degree on a first offense and a felony to be prosecuted under appropriate State law on each subsequent offense.

(2) Whoever violates a division (d)(3) of this section is guilty of a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (d)(4) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(4) Whoever violates division (d)(5) of this section is guilty of a felony to be prosecuted under appropriate state law.

(5) Whoever violates division (d)(6) of this section is guilty of a misdemeanor of the first degree.

(6)

A. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

B. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

(7) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of division (d) of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological

evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(ORC 959.99(E))

Statutory reference:

Impoundment of companion animals; notice and hearing, see Ohio R.C. 959.132

§ 618.06 SALE OF BABY POULTRY OR RABBITS; COLORING BABY POULTRY OR RABBITS.

- (a) No person shall sell, offer for sale, barter or give away baby chickens, ducklings or other fowl under three weeks of age, or rabbits under two months of age as pets, toys, premiums or novelties. No person shall color, dye, stain or otherwise change the natural color of baby chickens, ducklings or other fowl, or rabbits, or bring or transport the same into the City for such purpose, provided, however that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl, or such rabbits, in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising.

(Ord. 3580, passed 4-20-1960)

- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense; each subsequent offense is a misdemeanor of the third degree.

(ORC 925.99(B))

§ 618.07 ~~BARKING OR HOWLING DOGS.~~ NUISANCE CONDITIONS PROHIBITED.

- (a) No person shall keep or harbor any dog within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who allows any dog habitually to remain or be lodged or fed within any dwelling, building, yard or enclosure, which he or she occupies or owns, shall be considered to be harboring such dog.
- (b) **No owner shall maintain upon their premises such a number of household pets or dogs, cats, or other animals as will create a nuisance or be contrary to appropriate health and sanitary conditions.**
- (c) **No owner, keeper, or harborer shall allow their dog, cat, or other animal to become a public nuisance. In regards to this section, a public nuisance shall be defined as any animal which molests passersby or passing vehicles, attacks other dogs, cats, or companion animals, is repeatedly at large, damages private or public property, or vocally disrupts the peace.**

- (d) No owner, keeper, or harborer shall keep or harbor any dog, cat, or other companion animal or fowl in the City so as to create offensive odors or unsanitary conditions which are a menace to the health, comfort, or safety of the public.
- (e) Any dog, cat, or companion animal which scratches, digs, urinates, or defecates, upon any lawn, tree, shrub, plant, building, pole, or other public or private property, or damages or destroys any public or private property, other than the property of the owner, keeper, or harborer, is hereby declared to be a public nuisance. If an owner, keeper, or harborer immediately removes all waste or feces deposited by such animal and disposes of the same in a sanitary manner, such nuisance shall be considered abated. This section does not apply to guide dogs under the control of a visually impaired person.
- (f) The owner, keeper, or harborer of any animal which damages or destroys any public or private property shall be held liable for the full value of the property damaged or destroyed in addition to any penalty imposed for a violation of any of the provisions of this chapter.
- (g) No person, unless authorized by law or the City, shall knowingly or recklessly leave food or any other type of feed outdoors unattended so as to attract animals running at large, including wild or feral animals. The feeding of one's own animal(s) or wild birds on their premises shall be the exception so long as the feed does not attract animals whether running at large or wild from public property, public ways, or private property not owned by the person feeding one's own animal(s). The feeding of one's own animals outdoors shall take place during daylight hours only so as to minimize any potential risks.

 - 1. It shall be prima facie evidence of willful violation of this section if a person, not authorized by law or with permission from the City, knowingly or recklessly:

 - i. Leaves food or any other type of feed outdoors unattended, not in the presence of the owner's animal; or
 - ii. Allows animals running at large, stray, feral, or wild animals to feed on one's own property.
- (h) Whoever violates this section is guilty of a minor misdemeanor. Whoever violates any provision of this section in a second or subsequent offense shall be guilty of a fourth degree misdemeanor.

§ 618.08 REGISTRATION OF DOGS REQUIRED.

- (a) No owner, keeper, or harborer of a dog more than three months of age, nor owner of a dog kennel, shall fail to file an application for registration required by Ohio R.C. 955.01, nor shall he or she fail to pay the legal fee therefor.

(ORC 955.21)

- (b) Whoever violates this section shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) on a first offense, and on each subsequent offense shall be fined not less than seventy-five dollars (\$75.00) nor more than two hundred fifty dollars (\$250.00) and may be imprisoned for not more than 30 days.

(ORC 955.99(E))

§ 618.09 HINDERING CAPTURE OF UNREGISTERED DOG OR INSPECTION OF ANIMALS.

- (a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog, **animal running at large in violation of this Chapter, improperly identified animal as defined in §618.095**, or making an examination of a dog **or any other animal** wearing a tag
- (b) Whoever violates this section is guilty of a minor misdemeanor.

§ 618.095 ~~DOGS REQUIRED TO WEAR TAGS.~~ PROPER IDENTIFICATION OF ANIMALS.

- (a) No owner of a dog, except a dog constantly confined to a dog kennel registered under R.C. Chapter 955 or one licensed under R.C. Chapter 956, shall fail to require the dog to wear, at all times, a valid tag issued in connection with a certificate of registration. A dog found not wearing at any time a valid tag shall be prima-facie evidence of lack of registration and shall subject any dog found not wearing such a tag to impounding, sale, or destruction.
- (b) **All dogs, cats, and other companion animals are required to have proper identification such that the owner can be determined easily by the City or any of it's representatives. Proper identification shall consist of a valid registration tag issued by the county of registration or, if registration of the animal is not required by law, identification shall mean a collar and tag or microchip worn by the animal, which either includes the current name, address and telephone number of the owner, keeper or harborer, or refers to a national registration database designated or approved by the City of Middletown, which database includes the current name, home address and telephone number of the owner, keeper or harborer. If an animal is not wearing a collar and tag, but is microchipped with all of the requirements listed above, then the animal shall also have their eartipped to indicate that the animal contains a microchip with proper identification. Any dog, cat, or companion animal found without proper identification shall be prima-facie evidence of lack of proper identification and shall subject any dog, cat, or companion animal found not containing such identification to impounding and handling pursuant to §618.18.**

(ORC 955.10)

(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 955.99(B))

§ 618.10 UNLAWFUL TAGS.

(a) No person shall own, keep, or harbor a dog wearing a fictitious, altered, or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of that animal.

(ORC 955.25)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 955.99(B))

§ 618.11 RABIES QUARANTINE.

(a) No person having knowledge of the existence of rabies in an animal, or knowledge that an animal has exhibited symptoms or behavior suggestive of rabies, or knowledge that an animal has bitten any person, shall fail to immediately report such information to the City of Middletown Health Department or the Middletown Division of Police.

(b) Whenever it is established by the City of Middletown Health Department or the Middletown Division of Police. that any animal has bitten any person or exhibits symptoms or behavior suggestive of rabies, the person who owns, harbors or otherwise cares for such animal shall confine it in close quarantine and isolation or shall place such animal in the establishment of a veterinarian until, in either case, it is determined by the City of Middletown Health Department that the animal is not afflicted with rabies. The isolation and quarantine period hereby required shall be not less than ten days from the date the person was bitten. If the animal has, or develops, any symptoms suspicious of rabies during the ten-day period, the City of Middletown Health Department shall be notified immediately. All expenses incurred for the keeping of such animal, or the necessary tests to determine whether rabies exists, shall be borne exclusively by the person who owns, harbors or otherwise cares for such animal.

(c) Whoever violates this section is guilty of a minor misdemeanor.

~~§ 618.12 ANIMALS DAMAGING GARDENS AND LAWNS.~~

~~(a) No person owning or harboring one or more cats, dogs, fowl or other animals shall allow such animals or fowl to run at large so as to do damage to gardens, lawns, shrubbery or other private property.~~

~~(Ord. 3918, passed 3-13-1963)~~

(b) ~~Whoever violates this section is guilty of a minor misdemeanor.~~

§ 618.13 HARBORING OF BEES; NOTIFICATION TO ABATE.

- (a) No person shall keep or harbor in the City any bees that cause annoyance to other persons or damage to the property of others, so as to constitute a nuisance.

(Ord. 3539, passed 2-3-1960)

- (b) Upon a complaint being made that a violation of division (a) of this section has occurred, the Chief of Police is hereby authorized and directed to notify the owner or keeper of such bees to abate such nuisance and to remove hives or other contrivances, where such bees are kept or harbored, within ten days after being so notified. Such remedy shall be in addition to the penalty provided in division (c) hereof.

(Ord. 3200, passed 5-23-1956)

- (c) Whoever violates this section or fails to comply with any notice issued pursuant to division (b) above is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

§ 618.14 KILLING, INJURING OR POSSESSING BIRDS; DAMAGING BIRDS' EGGS OR NESTS; USE OF LEG HOLD TRAPS.

(a)

- (1) No person shall catch, kill, injure, pursue or have in his possession, either dead or alive, or purchase, expose for sale, transport or ship to a point within or without the City, or receive or deliver for transportation, any wild bird other than a game bird, or have in his or her possession any part of the plumage, skin or body of any wild bird other than a game bird, except as permitted in Ohio R.C. Chapters 1531 and 1533, or disturb or destroy the eggs, nest or young of such a bird.
- (2) This section does not prohibit the lawful possession of any game bird during the open season for such bird. Hawks or owls causing damage to ~~domestic~~ **companion** animals or fowl may be killed by the owner of such ~~domestic~~ **companion** animals or fowl while such damage is occurring. Bald or golden eagles and ospreys shall not be killed or possessed at any time, except that eagles or ospreys may be possessed for educational purposes by governmental or municipal zoological parks, museums and scientific or educational institutions. European starlings, English sparrows, common pigeons other than homing pigeons, and crows may be killed at any time, except Sunday, and their nests or eggs may be destroyed at any time. Blackbirds may be killed at any time, except Sunday, when doing damage to grain or other property or when they become a nuisance.
- (3) Each bird or any part thereof taken or had in possession contrary to any of the provisions of this section shall constitute a separate offense.

(b) No person shall set or maintain a leg hold type trap for the purpose of capturing or killing any animal.

(c) This section shall not apply to any officer or employee of the City acting in accordance with any provision of these Codified Ordinances.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.

(Ord. 079-47, passed 4-3-1979)

§ 618.15 ENTICING AWAY DOGS.

(a) No person shall entice any dog, with intent to deprive the owner of the possession of such animal, away from the premises of the person owning or harboring the same.

(Ord. 2540, passed 9-12-1945)

(b) Whoever violates this section is guilty of a minor misdemeanor.

§ 618.16 PERMITTING DOG FIGHTS.

(a) No person shall open or keep a pen or dog pit for the purpose of causing or permitting dogs to fight, or cause or set dogs to fight.

(Ord. 2540, passed 9-12-1945)

(b) Whoever violates this section is guilty of a minor misdemeanor .

§ 618.17 NUISANCE, DANGEROUS, AND VICIOUS DOGS.

(a)

(1) In support of this section, City Council makes the following legislative finding: Even though most dogs are harmless, as a result of breeding, training or abuse, some dogs pose a threat to human health and safety.

(2) Based upon this finding, and in order to protect the public from a serious threat to its health, safety and welfare, City Council hereby exercises its power to control dogs which pose a special risk to the public.

(b) For the purposes of this section, the following words and phrases shall have the meanings ascribed to them herein, unless a different meaning is clearly indicated by the context.

1. *ANIMAL SHELTER*. Include only a shelter operated by an incorporated humane society or a registered non-profit foundation.

2. A. *DANGEROUS DOG*. A dog that, without provocation, and subject to subsection (b)(2)(B) herein, **has done any of the following**; ~~has chased or approached any person in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or~~

otherwise endanger any person, or has attacked and injured another dog, when any of the following apply:

1. ~~The offending dog is off the premises of its owner, keeper, or harborer and not under the reasonable control of its owner, keeper, harborer, or some other responsible person; or~~
2. ~~The offending dog is not physically confined or restrained upon the premises of its owner, keeper, or harborer by a leash, tether, adequate fence, supervision or secure enclosure to prevent escape.~~
1. **Caused injury, other than killing or serious injury, to any person;**
2. **Killed another dog;**
3. **Been the subject of a third or subsequent violation of Section 618.01(f) of the Middletown Codified Ordinances or of Ohio Revised Code 955.22(c).**
- B. *DANGEROUS DOG* does not include a police dog that ~~has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person~~ **caused injury, other than killing or serious injury, to any person or has killed another dog** while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.
3. *MENACING FASHION*. A dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.
4. A. *NUISANCE DOG*. **A dog that, without provocation and while off the premises of its owner, keeper, or harborer, has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.**
B. *NUISANCE DOG*. **Does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger a person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.**
5. *POLICE DOG*. A dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.
6. *REGISTER or A REGISTRATION*. Registration as required by § 618.08(a) of the Middletown Codified Ordinances and Ohio R.C. 955.01.
7. *VETERINARY CLINIC*. A legal entity with validly licensed veterinarians(s) under Ohio R.C. Chapter 4741 that maintains custody of the dog for the purpose of providing medical treatment.
8. *VICIOUS DOG*.
 - A. A dog that, without provocation and subject to subsection (B) of this definition, ~~meets any of the following criteria:~~ **has killed or caused serious injury to any person.**
 1. ~~Has killed or caused serious injury to any person;~~
 2. ~~Has caused injury, other than killing or serious injury, to any person, or has killed another dog.~~
 - B. *VICIOUS DOG* does not include either of the following:
 1. A police dog that has killed or cause serious injury to any person ~~or that has caused injury, other than killing or serious injury, to any person~~ while

the police dog is being used to assist law enforcement officers in the performance of their official duties

2. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

9. ***WITHOUT PROVOCATION.*** A dog acts *WITHOUT PROVOCATION* when it was not teased, tormented, or abused by a person, or it was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(c) Except when lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous dog shall fail to do either of the following:

1. While that dog is on the premises of the owner, keeper, or harbinger, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;
2. While that dog is off premises of the owner, keeper, or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:
 - A. Keep that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;
 - B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to the dog so as to prevent it from causing injury to any person;
 - C. Muzzle the dog.

1. ~~The owner, harbinger or keeper of a dangerous dog shall keep said dog:~~
 - A. ~~When outdoors and on the premises of the owner, harbinger, or keeper in a securely fenced area or on a leash controlled by a competent adult, or~~
 - B. ~~When off the premises of the owner, harbinger, or keeper, securely restrained with a leash, not exceeding six feet in length, and under the control of a competent adult.~~
2. ~~The owner, harbinger, or keeper of a vicious dog shall secure the dog as set forth herein:~~
 - A. ~~When the dog is indoors, secure all means of egress so that the dog may not exit;~~
 - B. ~~When the dog is outside and on the premises of the owner, harbinger, or keeper, confined at all times in a roofed, securely fenced, and locked barricade designed so that the dog may not dig its way out. The barricade must be at least six feet in height measuring from the ground with an attached top, and posted with a sign stating "vicious dog" by both symbol and words; and constructed so that a child can not penetrate the barricade with his or her hand;~~
 - C. ~~When the dog is off the premises of the owner or harbinger, muzzled and securely restrained with a leash not exceeding three feet in length and under~~

~~the control of a competent adult. In the alternative, said vicious dog may be confined in a locked crate which is constructed of material of sufficient strength to prevent escape and posted with a sign stating "vicious dog" by both symbol and words, and constructed so that a child can not penetrate the barricade with his hand;~~

~~D. When the dog is in a vehicle or is being transported in an open bed truck, or other conveyance, it shall be confined in a locked crate or cage which is constructed of material of sufficient strength to prevent escape and posted with a sign stating vicious dog by both symbol and words, and constructed so that a child can not penetrate the barricade with his hand.~~

(d) No person who has been convicted of or pleaded guilty to three or more violations of § 618.01(f) of the Middletown Codified Ordinances or of Ohio Revised Code 955.22(c) involving the same dog, and no owner, keeper, or harbinger of a dangerous dog shall fail to do the following:

- 1. Obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing this section;**
- 2. Obtain a dangerous dog registration certificate from the county auditor pursuant to division (I) of section 955.22 of the Revised Code, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;**
- 3. Notify the local dog warden immediately if any of the following occurs:**
 - A. The dog is loose or unconfined;**
 - B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.**
 - C. The dog attacks another animal while the dog is off the property of the owner of the dog.**
 - D. If the dog is sold, given to another person, or dies, notify the county auditor within ten days of the sale, transfer, or death.**

(e) No owner, keeper, or harbinger of a vicious dog, as that term is defined in this Chapter and as determined to be so in accordance with this Chapter, shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000.00) because of damage or bodily injury to or death of a person caused by the vicious dog.

(f) No person shall:

1. Own, keep or harbor more than three "dangerous" dogs within the corporate limits of the City at the same time; or

2. Own, keep or harbor more than one "vicious" dog within the corporate limits of the City at one time.
3. If prior to May 13, 2005, the owner, harborer or keeper of more than three dangerous dogs or more than one vicious dog has such dogs registered in accordance with § 618.08 of the Codified Ordinances and maintains such registration on those dogs, the limitations of subsections (c) (1) and (2) shall not apply to these dogs.

(f)

1. All dogs declared to be "dangerous" or "vicious" under this Chapter, either legislatively or by a hearing officer under § 618.17(h) of the Middletown Codified Ordinance, shall be identified by inserting a micro chip between the top of the dog's shoulder blades at the wither, by an individual licensed to practice veterinary medicine in the State of Ohio. The micro chip shall include a number which will identify this specific dog apart from any other dog. The Middletown Division of Police shall maintain a roster of dogs declared to be "dangerous" or "vicious," which shall include the identifying number on the micro chip.
 - A. The owner, harborer, or keeper of a dog declared to be "vicious" or "dangerous" after the process set forth in §618.17(h) shall provide to the Middletown Police Department:
 - i. Documentation from the veterinarian describing the information on the micro chip;
 - ii. Current color photograph of the dog showing the front face, side head, and whole body of the dog, and any other identifying characteristics such as color, markings or scars, and
 - iii. The name, address, and phone number of the owner, keeper, or harborer of the dog.
 - B. Such information shall be submitted within 30 days of the declaration under §618.17(h), unless the owner, keeper, or harborer files an appeal and obtains a stay of this requirement.
2. If the owner, keeper, or harborer of a dog required to comply with §618.17(f)(2)(a) changes their address or telephone number, they shall report the change, in writing, to the Middletown Police Department.
3. If the owner, keeper, or harborer of a dog required to comply with §618.17(f)(2)(a) gifts, sells, or otherwise transfers ownership and/or control of the dog to another person, they shall:
 - A. Notify the person to whom the dog is transferred that the dog has been declared "dangerous" or "vicious"; and
 - B. Notify the Middletown Police Department, in writing, of the name, address, and telephone number of the person to whom the dog was transferred.
 - C. The owner, harborer, or keeper of a dog declared to be "dangerous" or "vicious" shall cause the dog to be neutered or spayed within 30 days of notification of such declaration. The owner, harborer, or keeper of the dog shall submit proof of the neutering or spaying to the Middletown Police Department along with the information required in (f)(2)(A) of this section.

(g) No person shall do any of the following:

- 1. Debark or surgically silence a dog that the person knows or has reason to believe is a ~~vicious~~ dangerous dog;**
- 2. Possess a ~~vicious~~ dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;**
- 3. Falsely attest on a waiver form provided by the veterinarian under division (jh) of this ordinance that the person's dog is not a ~~vicious~~ dangerous dog or otherwise provide false information on that written waiver form.**

(g) ~~The owner, keeper, or harbinger of a "dangerous" or "vicious" dog shall notify the Middletown Police Department if the dog has attacked a person.~~

(h) Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a ~~vicious~~ dangerous dog. The written waiver form shall include all of the following:

1. The veterinarian's license number and current business address;
2. The number of the license of the dog if the dog is licensed;
3. A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;
4. The signature of the owner of the dog attesting that the owner's dog is not a **dangerous** dog;
5. A statement that Ohio R.C. 955.22(F) prohibits any person from doing any of the following:
 - A. Debarking or surgically silencing a dog that the person knows or has reason to believe is a ~~vicious~~ **dangerous** dog;
 - B. Possessing a ~~vicious~~ **dangerous** dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
 - C. Falsely attesting on a waiver form provided by the veterinarian under Ohio R.C. 955.22(G) that the person's dog is not a ~~vicious~~ **dangerous** dog or otherwise provide false information on that written waiver form. It is an affirmative defense to a charge of a violation of division (jh) of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with division (jh) of this section and that attests that the dog is not a ~~vicious~~ **dangerous** dog.

~~(h) If the City becomes aware that a dog has been involved in an incident that could result in a determination that the dog is either "dangerous" or "vicious", it may conduct a hearing to make such a determination.~~

- ~~1. The hearing shall be conducted upon notice to the owner, keeper, or harbinger of the dog provided, in writing, to such person at least five days prior to the hearing. Such notice shall be provided by personal service, leaving a copy at the person's last known address, or regular U.S. mail at the person's last known address.~~
- ~~2. The hearing shall be conducted before the Chief of the Division of the Police or his or her designee.~~

- ~~3. The sole issue at the hearing is whether the dog has acted in a manner which would make it "dangerous" as defined in §618.17(b)(7)(A)(1) or (2).~~
- ~~4. The owner, keeper, or harbinger of the dog shall be provided an opportunity to present any information in support of their position that the dog is not "dangerous" or "vicious."~~
- ~~5. While the hearing is intended to informal, witnesses at the hearing should be sworn and a record of the hearing should be kept.~~
- ~~6. Within 15 days of the close of the hearing, the hearing officer shall issue a determination that the dog is harmless, "dangerous" or "vicious." The decision shall be delivered to the owner, keeper, or harbinger of the dog at the address provided such person at the hearing.~~
- ~~7. Any owner, keeper, or harbinger of a dog, who is notified of such hearing and fails to appear at the hearing, shall be deemed to have waived their rights under subsection (4) and (6) of this section.~~

(i)

1. Any person who violates § 618.17(c)(1) shall be guilty of a misdemeanor of the second degree on the first offense, and of a misdemeanor of the first degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training. or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (e) of this section. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, the county humane society, an animal control officer or a police officer certified in euthanasia. If the court finds that the "dangerous" dog has killed or caused injury to a person, or has killed another dog, without provocation, and subject to § 618.17(b)(78)A. of the Codified Ordinances, the court shall declare the dog to be a "vicious" dog under the terms of this section.
2. Any person who violates § 618.17(c)(2) shall be guilty of a misdemeanor of the first degree. If the "vicious" dog caused harm other than the killing or serious injury to a person, the court may order the "vicious" dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county human society. If the "vicious" dog caused the death or serious injury to a person, the court shall order that the "vicious" dog be humanely destroyed by a licensed veterinarian, the county dog warden or the county human society, or animal control officer or police officer certified in euthanasia. The failure to properly control and restrain a "vicious" dog can result in a felony under state law.
3. Whoever violates § 618.17(d) **and §618.17(e)** is guilty of a misdemeanor of the first degree.
4. Whoever violates § 618.17(e f) shall be guilty of a misdemeanor of the first degree. Additionally, the court shall cause the offender to surrender the dogs exceeding the limit imposed by § 618.17(e f) to the City, which may cause the dog(s) to be humanely destroyed, or to provide sufficient evidence to the court that all dogs exceeding the limit have been transferred to the ownership or control of another person, have been placed with an animal shelter, or have been humanely destroyed by a licensed veterinarian.

5. ~~Whoever violates § 618.17(f)(1) by failing to have a "dangerous" or "vicious" dog properly identified as required in that section is guilty of a misdemeanor of the second degree.~~
6. ~~Whoever violates § 618.17(f)(2)A.1., 2. or 3. or 618.17(f)(3) is guilty of a misdemeanor in the second degree. The failure to provide documentation in accordance with § 618.17(f)(2)A. shall result in the seizure and impoundment of the dog in issue.~~
5. Whoever violates § 618.17(g) is guilty of a misdemeanor of the second degree.
6. Notwithstanding the penalties imposed in this **section** ~~subsection (k)~~, a court shall order, in addition to any other sentence that it imposes on the offender, that the offender shall pay all costs and expenses, including shelter, food, boarding and veterinary expenses necessitated by the seizure of the dog; such other expenses as may be required for the destruction or relocation of the dog; and any expenses related to other orders of the court regarding the dog.

(Ord. O2005-44, passed 5-3-2005; Am. Ord. O2007-19, passed 3-6-2007)

§ 618.18 IMPOUNDING OF ANIMALS. DISPOSITION OF IMPOUNDED ANIMALS.

~~(a) If a police officer finds any dog, horse or cattle running at large in any street, market space or common or public ground or intruding on any private lot, yard or enclosure, he shall seize the same and cause it to be impounded. Any other person may similarly seize and impound any such animal found so running at large or intruding upon private ground. When any such animal has been impounded, the Police Division shall cause at least seven days' notice to be given by advertisement at least once in a daily newspaper, printed in the City and having general circulation therein, to the effect that such animal is impounded and requiring the owner thereof to prove his or her right to the same on or before the day specified in the notice. If the owner proves his or her right to the animal impounded, he or she shall have the same restored to him or her upon paying all costs and expenses and all unpaid penalties which may have been imposed for permitting such animal to run at large or to intrude on private property, except as provided in division (b) of this section. If proof of ownership is not made, the court having jurisdiction shall cause an order to be entered on its docket, directing that such animal be sold. Thereupon, the court shall issue an order, under its seal, requiring the Chief of Police to sell such animal, and the Chief upon receiving the order shall give at least three days' notice of the time and place of sale by advertisement in a daily newspaper of general circulation in the City, in the same manner except as to time, as in the case of property required by law to be advertised for sale by bailiffs. Thereafter, in accordance with the notice of sale, he or she shall sell the animal at public auction to the highest bidder, and after deducting his or her costs and necessary expenses, he or she shall pay the balance of the proceeds to the clerk of such court, accompanied by a statement in writing of such order of sale, of his or her proceedings and costs and expenses. Such return shall be made within ten days to the court. The clerk, after deducting the costs and all penalties for permitting the animal to run at large or intrude upon private grounds due from the owner, shall pay the surplus proceeds into the City treasury within 30 days. If the owner of the animal any time thereafter proves his or her right of property to the satisfaction of the court, the court shall issue an order on the City treasury directing that such surplus proceeds be paid to him or her, which order shall be complied with by the City Treasurer on receipt thereof.~~

- (a) Animals that have been taken into possession or seized by the City and impounded shall be kept, housed and fed for that period required by state law or, if not required by state law, for such period as is determined to be appropriate by the Animal Shelter used by the City or other designated facility, for the purpose of redemption, unless any of the following applies:**
- 1. Immediate humane destruction is necessary because of obvious disease/injury;**
 - 2. Immediate humane destruction of the animal is permitted pursuant to state law or pursuant to the terms of an impound and care policy adopted by Animal Shelter used by the City;**
 - 3. The owner, keeper or harbinger signs a release form permitting humane disposition of the animal; or**
 - 4. The owner, keeper or harbinger, if known, has been contacted pursuant to the proper identification under this chapter or state law and has requested that an animal remain in the designated facility or facilities until the owner, harbinger or keeper redeems the animal and the Animal Shelter or other designated facilities have agreed to extend the redemption period.**
 - 5. The animal is the subject of a pending court order, served on the City and the appropriate shelter or other facility prohibiting humane destruction of the animal. An animal that is the subject of pending court order may be disposed of pursuant to this section upon conclusion of the court action or pursuant to judicial order.**
- (b) Any animal not redeemed within the applicable redemption period may, at the option of the Animal Shelter or other designated facilities, be retained by the Animal Shelter or other designated facilities and placed for adoption at no cost to the city. In the alternative, any animal not redeemed within the applicable period may be handled in accordance with state law and subject to the Animal Shelter's policies and procedures.**
- (c) Where the owner, harbinger or keeper of a vicious dog, as defined in § 618.17, is charged with a violation of § 618.01 to § 618.17 or a State statute prohibiting the same conduct, the Division of Police may cause the vicious dog or dogs involved in the offense to be seized and held, at the expense of the owner, until charges filed pursuant to the above sections are fully adjudicated by the appropriate court, including disposition of the vicious dog. The determination of the status of the dog as a vicious dog, solely for purposes of impoundment under this section, shall be made at the time the dog is seized. An act prior to the offense charged is not necessary for the dog to be determined vicious for purposes of this section.**
- (d) Costs shall be assessed against every animal impounded under this chapter. Costs may include reasonable costs for impounding, kenneling, feeding and disposing of an animal, reasonable administrative costs and cost of veterinary care. The costs shall be a valid claim in favor of the City or designated animal facility against the owner, keeper or harbinger of an impounded animal, and may be recovered by the**

City or designated animal facility in a civil action against the owner, keeper or harborer.

(Ord. 096-57, passed 5-7-1996)

§ 618.19 DESTROYING BIRDS AND OTHER ANIMALS CREATING NUISANCE.

Whenever it appears, upon the complaint of a resident or otherwise, that starlings, sparrows, pigeons, rodents or other birds or animals constitute a nuisance in any part of the City, the Chief of Police is hereby authorized to use all necessary means to destroy such nuisance.

(Ord. 2540, passed 9-12-1945)

§ 618.20 REPORTING ESCAPES. (REPEALED)

EDITOR'S NOTE:

Section 618.20 was repealed as part of the 2014 updating and revision of this Code of Ordinances because substantially equivalent State law (Ohio R.C. 2927.21) was repealed by the Ohio General Assembly.

§ 618.21 KEEPING ANIMALS IN PROXIMITY TO DWELLINGS.

(a) No person shall raise, keep, maintain or harbor chickens, ducks, geese, turkeys, pigs, sheep, cattle, horses or goats in any pen, yard, lot or other enclosure situated within 300 feet of an inhabited dwelling place other than the dwelling place of the person raising, keeping, maintaining or harboring such animals.

(b) **Effective January 1, 2020, no person shall raise, keep, maintain, or harbor any dog, cat, or other companion animal without proper identification, as identified in §618.095, on public property or on private property in any pen, yard, lot or other enclosure situated within 300 feet of an inhabited dwelling place other than the dwelling place of the person raising, keeping, maintaining or harboring such animals.**

(c) **Any animal found in violation of division (a) or (b) of this section shall be impounded by the City, or their representative, and shall be handled pursuant to §618.18.**

(d) ~~(b)~~Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 087-49, passed 5-19-1987)

~~**§ 618.22 RESPONSIBILITY OF OWNERS FOR COLLECTION AND REMOVAL OF DOG FECES ON PUBLIC OR PRIVATE PROPERTY; EXEMPTION OF GUIDE DOGS UNDER CONTROL OF BLIND PERSONS.**~~

~~—(a) No owner or other person in control of a dog, male or female, shall allow such dog to be upon public property or upon the property of another, absent the consent of the other owner, without some device for the removal and collection of such dog's droppings, nor shall any~~

~~person fail to remove any excrement deposited by any dog under his or her control on public or private property. This section does not apply to guide dogs under the control of a visually impaired person.~~

~~(Ord. 092-73, passed 8-18-1992)~~

~~—(b) Whoever violates this section is guilty of a minor misdemeanor.~~

§ 618.23 CONFINEMENT OF DOGS.

- (a) Except as otherwise limited by § 618.17 of the Codified Ordinances, dogs may be considered to be in the reasonable control of their owner, harborer or keeper if they are enclosed or tethered on the property of such owner, harborer or keeper.
- (b) *Chaining or tethering.* Direct point chaining or tethering of dogs to a stationary point is prohibited. Dogs may be restrained by means of a trolley system or a tether attached to a pulley on a cable run, if the following conditions are met:
 - (1) Only one dog may be tethered to each cable run.
 - (2) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two adult human fingers may fit. Choke collars, prong collars and pinch collars are prohibited for purposes of tethering a dog to a cable run.
 - (3) The chain or tether must have swivels on both ends.
 - (4) The tether or chain and cable run must be of adequate size and strength to effectively restrain the dog. However, the chain or tether shall weigh no more than one-eighth (1/8) of the dog's weight.
 - (5) The chain or tether must be at least 15 feet in length and attached to a pulley or trolley mounted on a cable which is also at least 15 feet in length and mounted no more than 7 feet above the ground.
 - (6) The dog shall be tethered at a sufficient distance for any other objects to prevent tangling of the chain or tether, from extending over an object or an edge that could result in strangulation and a sufficient distance from any fence to prohibit the dog access to the fence.
 - (7) The dog shall have continuous access to water and shelter.
 - (8) The dog must be spayed or neutered.
 - (9) No dog shall be chained or tethered for more than 12 consecutive hours in a 24 hour period.
- (c) *Enclosures.* Any dog enclosed in a pen or a fenced yard must have adequate space for exercise based on a dimension of at least 150 square feet per dog. The fence or enclosure shall be of sufficient height to prevent the dog from escaping from the enclosed area. if the enclosed area has a cover, such cover must be at least two feet above the height of the dog standing on its hind legs. Dogs in enclosed areas must have continuous access to water and shelter.

- (d) Nothing in this section shall be construed to prohibit owners or others from walking dogs with a hand held leash.
- (e) Any person who violates division (b) or (c) of this section shall be guilty of a third degree misdemeanor.

(Ord. O2007-19, passed 3-6-2007)

§ 618.24 SEXUAL CONDUCT WITH AN ANIMAL.

(a) As used in this section:

- (1) *ANIMAL*. Means a nonhuman mammal, bird, reptile, or amphibian, either dead or alive.
- (2) *OFFENSE*. Means a violation of this section or an attempt, in violation of R.C. § 2923.02, to violate this section.
- (3) *OFFICER*. Has the same meaning as in R.C. § 959.132.
- (4) *SEXUAL CONDUCT*. Means either of the following committed for the purpose of sexual gratification:
 - A. Any act done between a person and animal that involves contact of the penis of one and the vulva of the other, the penis of one and the penis of the other, the penis of one and the anus of the other, the mouth of one and the penis of the other, the mouth of one and the anus of the other, the vulva of one and the vulva of the other, the mouth of one and the vulva of the other, any other contact between a reproductive organ of one and a reproductive organ of the other, or any other insertion of a reproductive organ of one into an orifice of the other;
 - B. Without a bona fide veterinary or animal husbandry purpose to do so, the insertion, however slight, of any part of a person's body or any instrument, apparatus, or other object into the vaginal, anal, or reproductive opening of an animal.

- (b) No person shall knowingly engage in sexual conduct with an animal or knowingly possess, sell, or purchase an animal with the intent that it be subjected to sexual conduct.
- (c) No person shall knowingly organize, promote, aid, or abet in the conduct of an act involving any sexual conduct with an animal.
- (d) An officer may seize and cause to be impounded at an impounding agency an animal that the officer has probable cause to believe is the subject of an offense. With respect to an animal so seized and impounded, all procedures and requirements that are established in R.C. § 959.132, and all other provisions of that section, apply to the seizure, impoundment, and disposition of the animal. References in R.C. § 959.132 to “section 959.131 of the Revised Code,” “companion animal,” and “offense” shall be construed, respectively, as being references to “§ 618.17 of this Code” and to “animal” and “offense” as defined in this section, for purposes of application under this section only.

(R.C. § 959.21)

(e)

- (1) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including but not limited to the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(R.C. § 959.99(D))

- (2) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(R.C. § 959.99(E)(6))

§618.25 HEARINGS FOR DOG DESIGNATION

- (a) **In accordance with the Ohio Revised Code § 955.222 Middletown Municipal Court, having territorial jurisdiction over the City, shall conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog.**
- (b) **If the person who is authorized to enforce this chapter has reasonable cause to believe a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog, the person shall notify the owner, keeper, or harbinger of that dog, by certified mail or in person, of the following:**
 - 1. That the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable;**
 - 2. That the owner, keeper, or harbinger of that dog may request a hearing regarding the designation in accordance with this section. The notice shall include instructions for filing a request for a hearing in Middletown Municipal Court.**
- (c) **If the owner, keeper, or harbinger of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger may request a hearing regarding the determination. The request for hearing must be made no later than ten (10) days after the owner, keeper, or harbinger received notification of the designation. The request shall be in writing and shall be filed with Middletown Municipal Court. At the hearing, the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has**

the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog.

The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in Middletown Municipal Court.

- (d) The court, upon motion of any owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination under this section, or during the pendency of an appeal. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with the provisions of division (c) of section 618.17 that apply to dangerous dogs regardless of whether the dog has been designated as a nuisance dog or a vicious dog, rather than a dangerous dog. The owner, keeper, or harbinger of the dog shall not be required to comply with any other requirements established in this chapter that concern a nuisance dog, dangerous dog, or vicious dog until the Court makes a final determination and during the pendency of any appeal.**
- (e) If a dog is finally determined under this section, or on appeal as described in this section, be a vicious dog, divisions (c), (d) and (g) of section 618.17 apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog. Division (D) of section 955.11 of the Revised Code, division (I) of section 955.22 of the Revised Code, and section 955.54 of the Revised Code apply with respect to the dog as if it were a dangerous dog, and the court shall issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harbinger in that manner. As part of the order, the court shall require the owner, keeper, or harbinger to obtain liability insurance as required under division (e) of section 618.17.**
- (f) As used in this section, "nuisance dog," "dangerous dog," and "vicious dog" have the same meanings as in section 618.17.**

§618.26 CIVIL PENALTIES

For any offense under this chapter there shall instead be the option, at the discretion of the City, to issue a civil penalty pursuant to Middletown Codified Ordinances in lieu of a criminal penalty.